

LANCASTER COUNTY PLANNING COMMISSION

Minutes

July 21, 2016

The regularly scheduled meeting of the Lancaster County Planning Commission was called to order at 7:00 p.m. in the Board meeting room of the Lancaster County Administration Building, Lancaster, Virginia.

Present were Ty Brent, Tara Booth, Bob Smart, Steve Sorensen, Glenn Pinn, David Chupp and Tom Richardson.

Also present were Don Gill, Planning/Land Use Director, Audrey Thomasson, Rappahannock Record, Charlie Costello and others. Board of Supervisors representative William R. Lee was absent.

Mr. Brent asked if there were any corrections or additions to the minutes of the May 19, 2016 meeting.

Mr. Brent moved to approve the May 19, 2016 minutes as submitted. **VOTE: 7-0.**

PUBLIC HEARING #1

APPLICATION FOR CHANGE OF ZONING DISTRICT CLASSIFICATION- JOHN W. HOLLOWELL, JR.

Mr. Brent asked Mr. Gill to present the issue.

Mr. Gill stated that the issue was an Application for Change of Zoning District Classification from R-1, Residential, General to A-2, Agricultural, General by John W. Hollowell, Jr. for a 3.17-acre parcel described as Tax Map #9-60D and a 3.66-acre parcel described as Tax Map #9-60F. He stated that those adjacent parcels were located at 1813 Davis Mill Road in District 2.

Mr. Gill stated that the applicant wished to build and operate a dog boarding facility/kennel on these parcels where his home is located, but could not do so under the current R-1 zoning since "kennel" is not a permitted use in the R-1 District. He stated that at its May 26, 2016 meeting, the Board of Supervisors amended the A-2 Agricultural General Zoning District to, among other things, allow kennels with a special exception. He stated that the Planning Commission had previously unanimously recommended that the kennel use be added to the A-2 District at its March 17, 2016 meeting. He stated that, as a result, the applicant seeks to first rezone these parcels to A-2, Agricultural General, so he can then request the special exception from the Board of Supervisors for the kennel

use. He stated that the Planning Commission's job is to consider the merits of the rezoning only, and make a recommendation on the rezoning to the Board of Supervisors. He stated that only the Board of Supervisors can consider the special exception for the kennel use once the rezoning has been approved.

Mr. Gill stated that the applicant has provided a preliminary site plan drawn to scale from prior surveys of the properties depicting the location of the proposed kennel building as well as the existing stands of timber which will serve as natural buffers from adjoining properties. He stated that the applicant has also provided a narrative explaining the proposed home-based business, which also addresses potential concerns such as noise, traffic, visual impacts and waste disposal.

Mr. Gill stated that this rezoning request can be considered reasonable and appropriate given these parcels' location. He stated that all adjoining properties are unimproved. He stated that Davis Mill Pond adjoins to the north, a 3.2-acre forested parcel to the east, a 2.8-acre forested parcel to the west and a 58-acre forested parcel to the south. He stated that there are only two homes within a half mile radius of the parcels proposed for rezoning and there are other A-2, Agricultural General zoned parcels in close proximity. He stated that this rezoning would be a downzoning, as uses in the A-2 District are generally considered to be less intense than those of the R-1 District.

Mr. Gill stated that the major theme expressed during the last two revisions of the Comprehensive Plan was to retain the rural character and heritage of Lancaster County. He stated that staff believes a home-based dog boarding facility located on 9 plus acres surrounded by large acreages of unimproved land conforms to that theme.

Mr. Gill stated that adjoining property owners have been notified and advertising conducted as required by law and to date, there has been no response from the public.

Mr. Brent opened the public hearing.

Mr. Chupp stated that Mr. Hollowell had done a fine job in presenting his proposal. He asked where the dog runs would be located.

Mr. Hollowell replied that there is an existing grass area adjacent to his driveway that he plans to locate four or five runs and some smaller runs near the building. He stated that he planned to keep all runs off of Davis Mill Road at least one hundred twenty feet.

Mr. Smart asked about the total capacity of the proposed kennel.

Mr. Hollowell replied that he had twenty climate controlled kennels and only anticipated full capacity around holidays and long weekends. He stated that this would strictly be for pets and that he had no intentions of breeding dogs or rescuing dogs. He stated that he thinks the kennel is a needed service in this area.

Mr. Brent asked about the plan for kennel waste.

Mr. Hollowell replied that he plans on bagging the solid waste and taking it away. He stated that the kennel will have floor drains for liquid waste. He stated that he can tie into his septic system if he decided later to put in a hand sink or a restroom in the kennel building. He stated that he had checked with the Department of Environmental Quality and does not need a permit for the number of dogs he intends to board.

Mr. Richardson stated that Mr. Gill had mentioned nine acres and asked if all nine acres would be rezoned.

Mr. Gill replied that Mr. Hollowell wants to rezone the 6.8-acres covering two of his parcels, but not rezone the remaining 2.8-acres in the third adjoining parcel he owns.

Mr. Richardson asked Mr. Gill if he thought the rezoning request fit with the Comprehensive Plan.

Mr. Gill replied yes.

Mr. Smart asked Mr. Hollowell if his neighbors were aware of his proposal.

Mr. Hollowell replied yes. He stated that he has spoken with both of his neighbors and if his proposal was offensive to them, he would not be doing it.

Mr. Brent closed the public hearing.

Mr. Smart made a motion to Forward to the Board of Supervisors with a Recommendation for Approval the Change of Zoning District Classification from R-1 to A-2 for Parcels #9-60D and #9-60F. **VOTE: 7-0.**

PUBLIC HEARING #2

APPLICATION FOR CHANGE OF ZONING DISTRICT CLASSIFICATION- MICHAEL L. NONNEMACKER

Mr. Brent asked Mr. Gill to present the issue.

Mr. Gill stated that the issue is an Application for Change of Zoning District Classification from R-1, Residential, General to C-1, Commercial (Conditional) by Michael L. Nonnemacker for a 6.998-acre parcel described as Tax Map #28-20B. He stated that the property is located off Irvington Road across from the Dreamfields Ballpark in District 4.

Mr. Gill stated that the applicant wished to build and operate a service/repair shop on this unimproved parcel, but could not do so under the current R-1 zoning. He stated that as a result, the applicant seeks to rezone the parcel to C-1 Commercial. He stated that to help his request, the applicant has also taken the list of permitted uses in the C-1 District and lined through the unwanted ones and has indicated that he will present a signed and notarized copy to the Board of Supervisors to formalize this conditional rezoning request.

Mr. Gill stated that this rezoning request can be considered reasonable and appropriate given the fact that nearby parcels have business or commercial uses. He stated that the parcel is located within a half-mile of two commercial properties: a C-2, Commercial Limited property which is the Nationwide Insurance Office and a C-1 Commercial property which is the Moubray/Savoy Boat Repair and Service Shop that was recently rezoned to C-1 on July 31, 2014. He stated that, in addition, the Dreamfields Ballpark and the King Carter Golf Course are located across Irvington Road from the proposed rezoning parcel. He stated that the parcel is also located in close proximity to the Lewis General Repair Shop, which is an authorized non-conforming use on a R-1 parcel, and Shear Pleasure and Progressive Insurance, which are R-1 parcels which received Special Exception approvals for professional offices. He stated that it is also located in close proximity to the County Refuse Site for the Kilmarnock area and Ransone's Nursery and Maintenance Headquarters, which is an authorized non-conforming use on an A-2 parcel. He stated that there are other C-1 Commercial properties at the intersection of Weems Road and Irvington Road as well as two C-1 parcels off Harris Road.

Mr. Gill stated that the Comprehensive Plan suggests that commercial activity be located in or near the towns and in or near the traditional village areas. He stated that this parcel is less than a mile from the Kilmarnock town limits and is adjacent to the County's Primary Growth Area, which is the triangular shaped area between the three incorporated towns of Kilmarnock, Irvington and White Stone.

Mr. Gill stated that the applicant will need to have an engineered site plan prepared and VDOT approval for a low volume commercial entrance off of Irvington Road, but that next step will cost additional money and it would not be prudent for the applicant to expend that money if this first step of rezoning is not approved.

Mr. Gill stated that the applicant's plan had been included in the Commission member's packages. He stated that the plan does not utilize the entire 6.998-acre parcel, so if approved, would leave half or more of the parcel zoned C-1 with no clear plan for the future development of that remainder acreage. He stated that the applicant could conceivably accomplish his wishes under the current R-1 zoning if he were to build a house and reside on the property and operated his service/repair shop as a home occupation, but he does not wish to follow that route and has applied for rezoning.

Mr. Gill stated that adjoining property owners had been notified and advertising conducted as required by law and to date, there had been one call from an adjoining property owner who did not have a problem with the request.

Mr. Brent opened the public hearing.

Mr. Chupp stated that, in all likelihood, he would vote against the request. He stated that he was familiar with the area and it is basically a residential neighborhood with modest homes. He stated that much of the commercial business in the area is zoned C-2 which seemed more appropriate in a residential area. He stated that two of the businesses, Shear Pleasure and Nationwide Insurance, actually look like residences. He stated that some of the other commercial businesses in the area, the County is stuck with, because they are “grandfathered” such as the Lewis General Repair Shop, which has been there for decades. He stated that the Moubray request that was granted recently had a long history of commercial activity already and it seemed like there would be improvements to the parcel.

Mr. Chupp stated that the zoning that Mr. Nonnemacker is requesting, C-1, allows all kinds of things. He stated that once it is rezoned, the applicant can change his mind or sell it to another person and then the intended use may change. He stated that one of the uses that has not been marked out is a service station, which he interprets as a gas station. He stated that the applicant or a subsequent owner could put in a contractor’s equipment storage yard because that is also not marked out. He stated that other uses that were not marked out were a welding and machine shop and mini-warehouses.

Mr. Richardson stated that there were already commercial businesses in that area doing similar things and mentioned Ransone’s Nursery and Maintenance and Lewis General Repair.

Mr. Chupp stated that there are other vacant sites in the County that he thought would be better suited for this type of commercial activity. He stated that he noted the lack of public response and thought that part of that may be due to the way the County notifies the public of pending zoning changes. He stated that he thought the protocol was deficient. He referred to the newspaper notice and stated that it mentioned nothing about the proposed use.

Mr. Gill stated that C-2 would not be applicable to this rezoning because there is a limit of 2,000 square feet of floor area for the building and Mr. Nonnemacker is proposing a 2,400 square foot building. He referred to Mr. Chupp’s comment about deficiency in zoning request notifications and stated that what is done by the County is in accordance with the Code of Virginia.

Mr. Chupp stated that he was certain everything was being done by code, but that he had lived in other areas where the applicant would place a sign on the parcel that outlined the proposed change so that neighbors could see it.

Mr. Smart referred to the lined out items on the permitted uses of the zoning district and asked Mr. Gill if it became part of the permanent record.

Mr. Gill replied yes and it applies to any subsequent owners as well.

Mr. Nonnemacker stated that he wanted to place the proposed building three hundred feet off the road and it would have natural buffers. He stated that he did not mark out the welding shop because he would be using a welder from time to time when repairing vehicles.

Mr. Brent asked Mr. Gill if he thought the request was spot zoning.

Mr. Gill replied no, because there are other commercial properties within close proximity.

Mr. Richardson stated that there are other commercial businesses on Irvington Road and he did not see an issue with the request.

Mr. Sorensen stated that he visited the site earlier in the day and he did not see a problem with the request.

Mr. Chupp asked how they would feel if the parcel had seven acres of miniwarehouses.

Mr. Sorensen stated that the request before them is for a repair shop.

Mr. Chupp stated that they had to think about the future. He stated that any of the uses that Mr. Nonnemacker had not marked through could be done in the future if the zoning request is granted.

Mr. Nonnemacker stated that approximately five of the seven acres is in a ravine. He stated that all he wanted was to open a repair shop to work on vehicles and supplement his income. He stated that he had no intentions of having miniwarehouses.

Mr. Brent asked if there was any way to be more restrictive with the request.

Mr. Gill replied that a rezoning is different from a special exception. He stated that with a special exception, the Board of Supervisors can place conditions on the request. He stated that with a rezoning, conditions can only be offered voluntarily as proffers by the applicant.

Mr. Chupp stated that he wanted to offer a possible solution. He stated that the C-2 district allows automobile repair and farm vehicle repair, but is limited to 2,000 square feet of floor space. He stated that if Mr. Nonnemacker could get by with a 2,000 square foot building, he would vote for it.

Mr. Gill stated that there was one more step involved in that C-2 process, in which Mr. Nonnemacker would have to pay an additional \$400 fee and seek a special exception from the Board of Supervisors once the rezoning was approved.

Mr. Nonnemacker stated that when he purchased the property, approximately fifteen years ago, he had planned on putting a building there for his landscaping business. He stated that now he works on a tugboat, so the repair shop would only be operated on a part-time basis. He stated that he owned the property and would not want to have to sell it to buy another parcel elsewhere.

Mr. Chupp asked about restrictions that the Planning Commission could possibly place on the request. He stated that he was concerned about a gas station on the location.

Mr. Gill stated that the applicant can voluntarily offer restrictions on his request, but the Planning Commission cannot place restrictions.

Mr. Smart stated that the building would not lend itself to being a gas station because of its location being so far off the road.

Mr. Chupp stated that the building could be built anywhere on the parcel.

Mr. Gill stated that the parcel is on Route 200, which is part of the Highway Corridor Overlay District which has a 150-foot setback requirement from two lane roads and there is also a deeded right of way down the east side of the property which has a 40-foot setback requirement, so locating a building site in the narrow strip of the parcel that touches Irvington Road would be extremely difficult.

Mr. Brent asked what type of turning lane would be required and would it require road widening.

Mr. Gill replied that VDOT has jurisdiction on the entrance and they have different classifications of commercial entrances. He stated that he would think it would be considered low volume and there would be some curb and gutter work required for the entrance, but no turning lanes or road widening.

Charlie Costello, a District 2 citizen, stated that he was concerned about the commercial activity along Irvington Road. He stated that other commercial requests were turned down a few years ago in the same area. He stated that he thought Mr. Nonnemacker was a man of his word, but was concerned what a future owner may do with the property.

Mr. Brent closed the public hearing.

Mr. Brent stated that he had confidence in Mr. Nonnemacker's plan, but was concerned about what could happen down the road.

Mr. Chupp stated that he sensed the Planning Commission was about to approve the rezoning request.

Mr. Gill stated that the Planning Commission could do one of three things- recommend the request for approval, recommend the request for denial or forward it to the Board of Supervisors with no recommendation.

Mr. Chupp stated that he suggested if the Planning Commission approves the request, they ask the applicant to take out a number of the other uses that he probably has no intention of using, such as a welding and machine shop or miniwarehouses.

Mr. Nonnemacker stated that he would mark through the miniwarehouses.

Mr. Chupp stated that he would like the applicant to mark out each item he had previously mentioned, so what is left is just the repair shop, which is what the applicant wants.

Mr. Gill stated that the Planning Commission cannot demand such restrictions. He stated that the restrictions have to be voluntarily proffered by the applicant. He stated that the list of proffers before the Planning Commission can only be changed if the applicant chooses.

Mr. Smart stated that if the applicant voluntarily crosses out the other uses before he goes before the Board of Supervisors, then that would have to be his choice.

Mr. Gill replied yes.

Mr. Chupp asked if the Planning Commission could recommend approval under the assumption that the applicant will cross out the other uses besides the repair shop.

Mr. Gill replied that the Planning Commission must vote on what is before them.

Mr. Chupp asked Mr. Nonnemacker if he would be willing to mark out the other uses.

Mrs. Booth stated that she was very uncomfortable with the way the hearing was going. She stated that, in her opinion, a motion needed to be made and not ask anything else of the applicant.

Mr. Sorensen suggested a motion with no recommendation since that would give the applicant a chance to do whatever he thinks he may or may not need to do to help his request at the Board of Supervisors level. He stated that he felt like Mr. Nonnemacker was being pressured.

Mr. Sorensen made a motion to Forward the Request for Change of Zoning District Classification for Tax Map #28-20B from R-1 to C-1 (Conditional) to the Board of Supervisors with No Recommendation.

Mr. Chupp added that there was no recommendation from staff as well.

VOTE: 6-1	Brent	Aye
	Booth	Nay
	Pinn	Aye
	Smart	Aye
	Chupp	Aye
	Sorensen	Aye
	Richardson	Aye

OTHER BUSINESS

Mr. Gill stated that the Planning Commission will resume its review of the Zoning Ordinance at its August 18th meeting.

ADJOURNMENT

The July 21, 2016 regular meeting of the Lancaster County Planning Commission was adjourned at 7:50 p.m.